

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.: 05-10858-GAO

TONY B. GASKINS,
Plaintiff,

V.

UMASS CORRECTIONAL HEALTH SERVICES,
DR. CARL SINGLETARY, and
STANLEY GALAS, NP, et al.
Defendant,

**ANSWER OF DEFENDANT, UMASS CORRECTIONAL HEALTH SERVICES,
TO PLAINTIFF'S AMENDED VERIFIED CIVIL COMPLAINT**

FIRST DEFENSE

The plaintiff's Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

The defendant responds to the allegations contained in the plaintiff's Complaint, paragraph by paragraph, as follows:

INTRODUCTION

No response to this paragraph of the plaintiff's Amended Complaint is required as it appears to state conclusions of law. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

JURISDICTION

No response to this paragraph of the plaintiff's Amended Complaint is required as it appears to state conclusions of law. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

PARTIES

1. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant.

2. The defendant admits that UMass Correctional Health Services has a principal place of business at One Research Drive, Suite 120C, Westborough, MA. The defendant denies the remaining allegations set forth in this paragraph of plaintiff's Amended Complaint.

3. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant.

4. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant.

5. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant.

6. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant.

7. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant.

STATEMENT OF FACTS

8. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

9. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

10. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

11. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

12. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

13. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

14. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to

the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

15. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

16. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

17. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

18. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

19. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

20. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

21. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

22. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

23. The defendant makes no response to this paragraph of the plaintiff's Amended Complaint as this paragraph does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

24. To the extent this paragraph alleges any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

25. To the extent this paragraph alleges any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

26. To the extent this paragraph alleges any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

27. To the extent this paragraph alleges any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

28. To the extent this paragraph alleges any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

29. To the extent this paragraph alleges any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

30. To the extent this paragraph alleges any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

31. To the extent this paragraph alleges any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

32. To the extent this paragraph alleges any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

33. To the extent this paragraph alleges any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

CAUSES OF ACTION
COUNT I

34. The defendant denies the allegations set forth in this paragraph of plaintiff's Amended Complaint. Moreover, the defendant denies that the plaintiff is entitled to the relief requested in this paragraph of plaintiff's Amended Complaint.

COUNT II

35. No response to this paragraph of the plaintiff's Amended Complaint is required as it does not pertain to this defendant. However, to the extent this paragraph

implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

COUNT III

36. No response to this paragraph of the plaintiff's Amended Complaint is required as it does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

COUNT IV

37. No response to this paragraph of the plaintiff's Amended Complaint is required as it does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

COUNT V

38. No response to this paragraph of the plaintiff's Amended Complaint is required as it does not pertain to this defendant. However, to the extent this paragraph implies any negligence and/or wrongdoing on behalf of this defendant, the allegations are denied.

PRAYERS FOR RELIEF

A. To the extent the allegations in this paragraph of the plaintiff's Amended Complaint are intended to apply to this defendant, they are denied. The defendant denies that the plaintiff is entitled to the relief requested in this paragraph of plaintiff's Amended Complaint.

B. To the extent the allegations in this paragraph of the plaintiff's Amended Complaint are intended to apply to this defendant, they are denied. The defendant denies that the plaintiff is entitled to the relief requested in this paragraph of plaintiff's Amended Complaint.

C. To the extent the allegations in this paragraph of the plaintiff's Amended Complaint are intended to apply to this defendant, they are denied. The defendant denies that the plaintiff is entitled to the relief requested in this paragraph of plaintiff's Amended Complaint.

D. To the extent the allegations in this paragraph of the plaintiff's Amended Complaint are intended to apply to this defendant, they are denied. The defendant denies that the plaintiff is entitled to the relief requested in this paragraph of plaintiff's Amended Complaint.

E. To the extent the allegations in this paragraph of the plaintiff's Amended Complaint are intended to apply to this defendant, they are denied. The defendant denies that the plaintiff is entitled to the relief requested in this paragraph of plaintiff's Amended Complaint.

THIRD DEFENSE

By way of affirmative defense, the defendant says that if the plaintiff suffered injuries or damage, as alleged, such injuries or damage were caused by someone for whose conduct this defendant was not and is not legally responsible.

FOURTH DEFENSE

By way of affirmative defense, the defendant says that the action is barred by the applicable statute of limitations.

FIFTH DEFENSE

By way of affirmative defense, the defendant says that the action should be dismissed because of lack of jurisdiction over the defendant.

SIXTH DEFENSE

By way of affirmative defense, the defendant says that the plaintiff, by his conduct and actions and/or the conduct and actions of his agents and servants, is estopped to recover any judgment against the defendant.

SEVENTH DEFENSE

By way of affirmative defense, the defendant says that the plaintiff, by his conduct and actions and/or the conduct and actions of his agents and servants, has waived any and all rights he may have had against the defendant, and, therefore, the plaintiff cannot recover in this action.

EIGHTH DEFENSE

By way of affirmative defense, the defendant says that the plaintiff consented to the defendant's alleged conduct, acts and statements and, therefore, the plaintiff cannot recover.

NINTH DEFENSE

By way of affirmative defense, the defendant says that he is protected from liability by a qualified immunity for any of the matters raised in the plaintiff's Complaint.

TENTH DEFENSE

By way of affirmative defense, the defendant says that the plaintiff failed to properly present his claim pursuant to the requirements of the Massachusetts Tort Claim Act, M.G.L. c. 258, §4.

ELEVENTH DEFENSE

By way of affirmative defense, the defendant says that the plaintiff failed to exhaust his administrative remedies as required by 42 U.S.C. §1997(e)(a).

THE DEFENDANT DEMANDS A TRIAL BY JURY ON ALL ISSUES.

I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) and the attorney of record for each (other) party by mail (by hand) on this 22nd day of September, 2005.

/s/ James A. Bello

James A. Bello / Boaz N. Levin

The Defendant,
UMASS CORRECTIONAL HEALTH SERVICES,
By its attorneys,

/s/ James A. Bello

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